14-1943

Judge Reverses Decision In Assault Case

Age

Involving Negro Soldier, Two Detectives

New York, N. Y.

MT. VERNON, N. Y. — After sharply contrasting testimony in an all-day trial of disorderly conduct charges against a Negro soldier, Pfc. Cecil Lee, 28, stationed at the Military Air Base at Newark, N. J., City Court Judge Jacob A. Bernstein reserved decision and gave both sides a week in which to submit briefs.

The action arose out of an incident on July 14 in front of the Biltmore Theatre on South Fifth avenue, when Detectives James Gleason and William Elliott, carrying a warrant for the arrest of a Negro soldier absent without leave, encountered Private Lee.

W. E. Cribari prosecuted the case for the complainant, Detective Gleason, despite objections of Lee's attorneys, Lucius L. Delany and John H. Lewis, both of New York City. Lewis contended that since the prosecution was being conducted not by Gleason but by the people of the State of New York, only a person aggrieved by the people had a right to prosecute.

Judge Bernstein ruled that in a criminal prosecution, a complaining witness might be represented by counsel. Testmony of witnesses was that Private Lee refused to show Detective Glason his credentials on the grounds that he did not recognize civil authority and would show them only to military authorities. Lee said he did not know he was talking to a police officer and that neither officer showed their badges or identified themselves as members of the police force.

The detectives said the soldier walked away from them whereupon they grabbed him by the arm. They said that after Lee struck Elliott on the shoulder, the soldier was hit on the head, subdued, and taken in their car and rushed to headquarters where he was questioned, booked and placed in a cell.

The soldier's story differed considerably. According to his sworn testimony, Gleason hit him on the head several times. He also said that when the detectives put him into their car, he started to sit on Elliott's hat and that Elliott drew a gun on him. The soldier said that when het got out of jail he went to Lawrence Hospital, Bronxville, for treatment and from there to a military hospital at Newark where he spent 16 days.

Florida Rape Case Rehearing Sought In Supreme Court

New York, N. Y.

WASHINGTON, D. C.—A petition for rehearing of the case of Edgar Flowers, convicted of rape in Florida, was filed this week in the United States Supreme Court. The petition stated that the alleged confession was procured under duress and the petition said, before Flowers had received the advice of friends or counsel.

The denial of October 11 of a writ of certiorari to review the judgment of the Florida Supreme Court was set forth as reason for granting a rehearing. The petition for rehearing further asserted that the denial of a writ of certiorari affects the administration of criminal law throughout the United States and particularly in the State of Florida.

When the writ of certiorari was denied, Associate U. S. Supreme Court Justices Murphy and Douglas expressed the opinion that it should have been granted.

The rehearing is further sought, the petition stated "in view of the fact that the Chief Justice and one Associate Justice of the Supreme Court of Florida dissented from affirming the conviction." In his dissenting opinion, Mr. Justice Brown stated that the officers who arrested Flowers had violated the Florida statutes by failing to advise petitioner of the grounds of arrest. "The dissent of the Chief Justice and Mr. Justice Brown," states the petition, "confirms the conviction of counsel and of many other interested persons that the petitioner, in his trial for a capital crime, was denied constitutional rights."

Not only did the State officers fail to inform him of the charge against him, but one of them admitted that he lied to Flowers when he told Flowers that the state had his fingerprints taken from the scene of the alleged crime.

Flowers was taken at midnight from one county jail to another, the petition states, in order to instill in him a fear of lynching. The petitioner further charges that his wife who was ill and pregnant at the time was arrested, only for the purpose of exploiting her misery and plight for the effect her arrest would naturally have on Flowers' mind and sensibilities.

Statement Is Irking Negro Leaders Here

Amsterdam News

Judge Wallace's Remarks Start Protest Drive In Two Boroughs

New York, N. Y.

"In some parts of this country you would have been hung from a lamppost with several bullets in you for attacking a woman like that."

Believe it or not, Judge James Garrot Wallace, presiding in General Sessions, made this statement when he sentenced Joseph Bunch, 19-year-old Negro of 902 Rockaway Ave., Brooklyn, to a five to ten year term for allegedly robbing and beating Miss Leona Finestone on May 13 in the lobby at 205 West 17th St.

According to Miss Finestone, who is 25 and lives at 248 West 17th St., Manhattan, she was on her way to her work when Bunch, who is tall and heavily built, snatched her handbag.

She said when she screamed, Bunch becoming frightened, hurled the pocketbook at her head and when it missed, commenced to beat her with his fists. When she persisted in following him, she added, he drew a pocketknife and slashed her across the scalp.

Says She Screamed

It was stated that her screams attracted the attention of a group of men and they captured Bunch after chasing him for a block and turned him over to the police. A bloodstained knife, police say, was found in his pocket.

When a Brooklyn Amsterdam News representative interviewed Bunch's mother at their Rockaway Ave. home an entirely different picture was cast on the situation. The mother said that the attorney who was defending her son had urged her boy to plead guilty and it was on his advice that the plea had been made.

"The girl testified in court that he didn't take anything out of the pocketbook," she said.

Looking For Work

The mother said that her son was looking for a job and that Miss Finestone called him a name and several words followed which resulted in a fracas. The mother was vehement in her statement that Joseph did not snatch the girl's pocketbook. "She threw it at him," the mother told reporters.

However, Judge Wallace's statement: "In some parts of this country you would have been hung from a lamppost with several bullets in you for attacking a woman like that" is still ringing in the ears of Negro civic leaders in New York and Brooklyn. A gigantic protest program is being planned against the statement.

2 Women Fight On Bus; Jury Lets White Go

Amsterdam News

New York, N. Y.

Colored Woman Jailed In Altercation On Texas Line

FORT WORTH, Tex. (ANP) — Citizens here became greatly disturbed last week when a fight between a Negro couple and a white woman over a bus seat resulted in a jail sentence for the Negro woman involved while the white woman went free.

The Negro woman, Mrs. Earlend Fletcher, 18, was sentenced by Judge Dave McGee after she pleaded guilty to a charge of aggrevated assault on Miss Opal Pelton, white, during a dispute on a city bus. Mrs. Fletcher was sentenced while her husband, Clarence Fletcher, 20, held for the same charge as his wife, was found not guilty and freed by a jury.

How It Works

According to reports the Fort Worth buses are so crowded that when whites fill the front end of the bus they go on to rear and take the few seats alloted to Negroes. Some bus drivers are said to force Negroes to get up and let whites sit down even in the rear of the vehicle.

Such is said to have provoked the disturbance between the Fletchers and Miss Pelton.

When the white woman took a seat on the long cross seat at the rear of the bus in the Negro section she objected to the Negro couple's taking a seat beside her.

The two womer began a ough battle which resulted in the Negro couples arrest.

May Appeal Case

Coleman Cline of the Cline and Cline law firm served as lawyer for Fletcher and due to his handling of the case the man was acquitted. On the strength of evidence presented during the trial, Cline plans to appeal Mrs. Fletcher's sentence. "Evidence in the trial indicates Mr. Fletcher was guilty of only simple assault which is a maximum penalty of a $25 fine," Cline said.

Argus

St. Louis, Missouri

HIGH COURT REVERSES TWO DEATH PENALTIES

JEFFERSON CITY, Oct. 5,—Two death penalties were reversed and new trials were ordered by Division 2 of the Missouri Supreme Court Monday. The penalties had been imposed on William Edward Talbert for the murder of Martin Twillman in North St. Louis County on September 30, 1941, and on Buford Cole for the murder of Geraldine Brookfield, 7-year-old girl, whose body was found December 19, 1941, in an alley near her home, 2225a Market street.

Daily World

Atlanta, Georgia

Detroit Youth Awarded $300 for Cop Assault

DETROIT (ANP) — Seventeen year old Arnold Adams was last week awarded damages amounting to $300 and cost as a result of his accusation brought against Patrolman George Miller who was found guilty of striking him with a club on April 28.

The boy accused the officer of stopping him on the street, taking his cigaret and then striking him with his nightstick when he asked the officer to return the cigarets.

The officer, however, claimed he was being rushed by a group of people and was swinging his club when Adams walked into the path of the stick and was accidentally struck on his person.

The case was heard without a jury by Circuit Judge Clyde I. Webster who awarded the boy the money.

Adams' mother, Mrs. Luberta Adams, had a declartion filed in circuit court in June, 1942 asked damages of $10,000 for time lost from work and from sickness in a suit filed against a Hunt Street police officer.

The declaration stated that Adams was "searched, pulled and dragged, then struck by a bullet, in the hands of Patrolman George L. Miller on the night of Feb. 28, 1942.

The case represents the first involving an officer as the result of the Sojourner Truth disturbance nearly two years ago.

SUPREME COURT HEARS TEXAS PRIMARY CASE

Chicago Bee

WASHINGTON, D. C., Nov. 18 —The 20 year fight of the N. A. A. C. P. and the Negro people of Texas to win for the latter the right to vote in the primaries for the fourth time reached the United States Supreme court last Wednesday when oral arguments were heard.

"This is conceivably the most important case affecting the Negro which has come before the supreme court," declared Walter White just before formalities got under way. Indeed, lawyers from various parts of the country had gathered here to hear the argument.

It was revealed at the outset that S. E. Allwright et al respondents in the case which had been brought by Dr. Lonnie Smith, a dentist, in Houston, failed either to submit a brief or to be represented by counsel. No comment was immediately available as to possible effect of this failure to be represented. The case was before the court on a writ of certiorari which had been granted.

A little before four o'clock, Thurgood Marshall, attorney for the petitioner, began the presentation by pointing out the similarities between this case and the celebrated Classic case of New Orleans, in which the high tribunal decided that the primary machinery had been made an integral part of the election system for the election of certain federal officials.

Later, William H. Hastie, dean of the Howard university Law school, and associate counsel for the NAACP, continued. The nine judges, with Chief Justice Harlan E. Stone presiding, listened until 4:30 and the case was continued on Friday.

The question presented before the court was "does the constitution of the United States prohibit the exclusion of qualified Negro electors from voting in primary elections which are an integral part of the election machinery of the state and which are determinative of the choice of federal officers?"

The Reasons

Petitioners asked that the judgement of the circuit court of appeals for he fifth circuit be reversed for the following reasons:

1. The rationale of the Classic case covers a civil action for denial of the right to vote in a Louisiana primary election because of race or color.

2. There is no essential difference between the status of primary elections in Louisiana and Texas.

3. The respondents here are subject to the controlling federal statutes.

4. The conduct of respondents in denying petitioner a ballot to vote in the Texas Democratic primary was state action.

5. New matter disclosed in the present record destroys the factual basis for the decision in Grovey vs. Townsend.

Reviewing the background of the fight against the Texas election officials for the benefit of reporters, Thurgood Marshall said that several cases had been before the supreme court beginning with the case of Nixon vs. Herndon (1927) in which the court declared illegal a provision under the Texas laws which excluded Negroes from voting in the Democratic white primary. A new law was passed, he said, authorizing the executive committee of the Democratic party in Texas to determine who should vote in the primary elections.

"The NAACP again went before the supreme court and the decision in the case of Nixon vs. Condon (1932) secured a declaration by the court that this system was equally illegal," he stated. "However, in this latter opinion, the court pointed out that the Democratic party itself might have the right to determine who should vote in the democratic primary.

"The party promptly adopted a resolution restricting membership to white electors. The NAACP decided not to file additional cases until a method was found to attack the latest mode of discrimination. However, a group of citizens carried another case to the supreme court, which resulted in the Grovery vs. Townsend (1936) decision.

"The decision declared legal the latest form of discrimination against Negroes on the ground that the Democratic party was a private organization and therefore not subject to the control of the U. S. Constitution.

"Meanwhile, the court, in 1941, in a ruling involving the refusal to count the ballot of a white elector in the Democratic party in Louisiana, held that wherever a primary is an integral part of the election machinery of the state or actually determines the result of the election, then such a primary is subject to the prohibitions of the constitution."

The Smith case was developed, he explained, and brought into court as a violation of the 14th and 15th amendments. An adverse ruling was made in the local federal court which ruling was affirmed by the U. S. Circuit Court of Appeals. A petition for certiorari was filed in the U. S. Supreme court on April 24, 1943, and was granted on June 7.

Friend of the court briefs have been filed by the American Civil Liberties union, the National Lawyers guild and the Workers Defense league.

Wins Civil Right Case Against Downstate Department Store

Daily World
Atlanta, Georgia

CHAMPAIGN, Ill.—(SNS)—

Mrs. Eloise Townsend, a life-long resident of Lincoln, Ill., has just won a civil rights case against the Spurgeon's Dry Goods Store of Lincoln for a refusal on the part of the store to let her try on a hat.

These are two outstanding things about this case. First, it was a test case for the 1938 Amendment to the Illinois Civil Rights Act, making department stores subject to the act, and it is the first time that a civil rights case has been won downstate before an all-white jury.

The facts are that on January 6, 1940, Mrs. Eloise Townsend, together with two other friends, Mrs. Ray Roberts and Mrs. Margurete Robinson, also residents of Lincoln, went to the Spurgeon's Store to purchase a hat and the clerk refused to allow her to try on the hat, saying that it was against the policy of the store to allow colored persons to try on hats. Mrs. Townsend reported this refusal to the manager and he acknowledged that it was the policy of the store and expressed his regrets, of course, all of which was denied in court.

Mrs. Townsend tried to obtain local counsel to represent her; upon failing in this, secured the services of Nelson M. Willis, Chicago and Danville lawyer. The case was bitterly fought for two days by Trapp and Trapp, leading attorneys in that section of the state.

It is believed that one of the things that influenced the jury as much as anything in making its decision was part of Attorney Willis' argument which was as follow: "This case is not only important to my client, Mrs. Townsend, but important to every Negro in Lincoln. every Negro in Illinois and every Negro in the United States, and to every black soldier who is fighting in every part of the world for the protection of these United States. As important as it is to the Negro race, it is more important to the white race because the issues involved in this case are the basis for the whole world's struggle that is now going on. America has proposed the four freedoms for the world, and before she can preach the four freedoms, she must first clean her own house. Shall we begin in Washington or in Lincoln? I believe the best place to begin is in Lincoln."

The jury deliberated for eight hours and then returned a verdict of $25 for Mrs. Townsend. Although the amount was small, her rights had been vindicated.

Judge Frank Beven was the presiding Judge and was very fair and impartial in all of his rulings.

The Illinois State Association of Elks was principal sponsor backing the case and Bradley Mayberry Post of the American Legion, Danville, Illinois and the NAACP were interested in the case to the extent that they helped finance its prosecution.

Court Blasts Housing Color Bar In Chicago

Defender
Chicago, Ill

In a historic decision, Judge Samuel Heller of the Municipal Court this week ruled illegal restrictive covenants based on race.

The decision which may open new areas to Negro tenancy was a hard blow against swift landlords who use covenants to keep the Black Belt a densely-packed ghetto where rents are constantly soaring despite OPA rent ceilings.

Declared Judge Heller in his ruling:

"The Constitution of the United States is the basic law of a republic, which recognizes only one class of citizens. All are subject to the same obligations. All are entitled to the same privileges."

The case was a suit in Renters' Court, brought by Alice M. Chew, owner of a lodging house at 412 N. Clark street, to oust Henry Reichard, lessee of the second and third floors. Reichard had rented rooms to Negroes, the bill charged, in violation of a clause in his lease specifically excluding them.

Ruling against the woman landlord and the Jim Crow covenant Judge Heller declared:

"The covenant contained in the lease is based on the theory of 'superior' and 'inferior' races and is an attempt to legalize the segregation of races. Lest the 'superior' one be contaminated by the 'inferior' one.

"This pseudo-philosophy is the basis of the minority problems confronting many nations and no country has ever solved this problem through hate and discrimination. The Negro problem in the United States is no exception to this rule. Here, as elsewhere, racial prejudice is a double-edged sword. It violates the rights of helpless human beings and it disgraces those who indulge in it.

"The 'herrenvolk psychosis' has no place in a country whose basic law is the United States Constitution with its immortal Bill of Rights. The Constitution is not just a grant of paper rights, to be brandished as a cover-up for the development of Fascism in the name of democracy. Sophists and quibblers may bend it, twist it and emasculate it so that the Constitution is transformed from a barrier against oppression to a legal front for the oppressor.

"Any attempt on the part of any citizen to deprive any other citizen of the enjoyment of any privilege by means of Fascist slogans, such as 'Gentiles only' or 'whites only' is repugnant to the spirit of the Constitution and should not be enforced in any court in any state of the Union."

14-1943
Age-Herald

Birmingham, Ala.

EXECUTION STAY DENIED BY COURT

MAR 10 1943

WASHINGTON, March 9—(AP)—The Supreme Court denied Tuesday a stay of execution sought by Robert Redus, a Negro sentenced to die March 19 for slaying an Athens, Ala., policeman.

At a special conference held Tuesday, the tribunal also refused to review the conviction. Among other things, Redus contended that members of his race had been excluded from the jury rolls.

He was convicted in the Limestone County Circuit Court of killing Bedford Brackeen on a public street at Athens, March 23, 1941. Redus was arrested in Nashville, Tenn., two days later.

The Negro contended also that the verdict was improper because it had been written in a red-colored pencil. Alabam officials said this argument was "obviously unsound and without merit."

MAR 10 1943

Another contention by the Negro was that an alleged confession of guilt had been extorted through coercion, complsion and by putting him in fear of county officers.

Opposing a Supreme Court review, Alabama officials said that "an analysis of the record demonstrates that no doubt of his guilt is shown to exist" and that "no spirit of racial prejudice of mob domination is presented."

Birmingham Post

Birmingham, Alabama

CONDEMNED MAN GETS REPRIEVE

MAR 14 1943

By United Press.

MONTGOMERY, March 12.—Gov. Chauncey Sparks has granted a five-week reprieve to Robert Redus, Negro, convicted of killing an Athens, Ala., policeman and who was to die at Kilby Prison at midnight tonight.

MAR 21 1943

The Negro's attorneys appeared before the governor and requested the stay of execution to allow time ot prepare a new appeal for a review of the case before the United States Supreme Court.

MAR 21 1943

The first petition for a supreme court review on grounds that Redus was not given a fair trial because Negroes were barred from the jury which tried him was denied Tuesday.

High Court Ruling Highlights Struggle for Negro Civil Rights

APR 24 1943

The Daily Worker New York, N. Y. 13

The tide of struggle for the civil rights of the Negro people is rising under the impact of the War of Liberation. Judge Lynch and Jim-Crow are meeting with sterner resistance to their dictatorial rule.

On Monday, the United States Supreme Court stayed the execution of Henry Daniels, Jr., and Curtis Robinson, Negroes of Mobile, Ala., who had been sentenced to death on a rape charge. Their execution was scheduled for April 23.

APR 21 1943

On the basis of the defense plea that confessions had been obtained by beatings, threats of lynching and prolonged questioning, the Supreme Court decided to review the case, and thus stayed the execution.

The conviction of the two men had been upheld by the Alabama Supreme Court.

This action of the U. S. Supreme Court follows by a few days the unanimous decision of the Superior Court of Pennsylvania not to extradite young Thomas Matto to Georgia on the grounds that he would not receive a fair trial and stood in danger of lynching.

At Hattiesburg, Miss., five men yesterday went on trial before a Federal Court judge for the lynching of Howard Wash, 48-year-old Negro who was taken from a jail in Laurel and hung from a bridge. The five men include a deputy sheriff, charged with failure to use "reasonable means" to protect Wash a prisoner, and four who were leaders of the lynch mob.

The federal government stepped in, following the lynchings, and obtained indictments against the five me. Yesterday was devoted to the selection of a jury.

And in New York, it was announced that lawyers would be asked to resign en masse from the American Bar Association if that organization does not end its Jim-Crow practices. The announcement was made by Benjamin Hartstein, chairman of a special committee set up by the Federal Bar Association to investigate charges of discrimination on the part of the ABA.

The committee of the Federal Bar Association is the second set up in New York to investigate ABA Jim-Crow practices, following failure of the ABA to act on the membership application of Francis E. Rivers, Negro assistant district attorney in New York County. Earlier, the New York County Lawyers' Association designated Samuel Seabury to head a similar committee.

A number of lawyers and judges have already resigned fom the ABA because of its discriminatory policies.

Supreme Court Decrees U. S. Without Power To Try And Convict Trio

Houston Texas Informer

MAY 29 1943

MAY 29 1943

WASHINGTON, D. C.—Another lease on life was extended to the famous trio of Negro soldiers who were convicted and sentenced to die for an alleged rape committed on a white woman at Camp Claiborne, near Alexandria, La., last July, by the United States Supreme Court on Monday when it held that the United States District Court for the Western District of Louisiana had no jurisdiction in the matter. The case had attracted nation-wide attention.

The three soldiers involved are Richard Adams, Columbus, Ohio; John Bordenave, New Orleans, Louisiana and Lawrence Mitchell of Baldwin, Michigan. Accused of attacking a white waitress on military reservations, the trio were tried in federal court at Alexandria on July 27 and were found guilty and were sentenced on August 10th to die in the electric chair on October 30, 1942, by Judge Ben C. Dawkins, federal judge.

Up to this time the soldiers were represented by laywers appointed by the court. One of the attorneys, John C. Hunter, Jr., then a candidate for district attorney of Rapides parish, strenuously objected to his opponent as defense counsel for Berdenave and on the day set for trial asked the court to continue the case until such time as Bordenave was able to raise funds to employ a lawyer of his own choice. The court refused a continuance and ordered the trial to proceed.

MAY 29 1943

Witnesses for the government testified that Adams, Bordenave and Mitchell, on patrol duty that night, came across a white waitress, Hattie Rose Mason on a blanket back of the guest house at Camp Claiborne at 2 o'clock in the morning; that she was in company with a white soldier named Schuler, a friend she knew from Ripley, Ohio, and in whose home she lived; that Mitchell, Bordenave and Adams ordered them up from their "love nest" and threatened to arrest them; that they got in a jeep which was driven by Mitchell and when Schuler was put out of the jeep at his destination, the soldier trio carried her into another section of Camp Claiborne where, she claimed she was attacked.

Mitchell, Bordenave, and Adams denied the attack and stated that Miss Mason, who later married Schuler, was a voluntary participant in what took place on the night of the incident. An Army doctor who testified for the accused soldiers stated that Miss Mason was examined by him thirty hours later and he found no signs of an attack and that Miss Mason, who was fully composed at the time he examined her, had a veneral disease of six months standing. The story of a rape being committed on her was concocted by a roommate and the matron at Camp Claiborne, and not by Miss Mason, the defendants attempted to prove at the trial. Notwithstanding this testimony, the accused soldiers were easily convicted by an all-white jury.

NAACP Enter Case

After their trial and conviction, Mrs. Blanche Holmes, mother of John Bordenave solicited the assistance of the NAACP in the case. The Alexandria, New Orleans, Columbus and Baldwin branches of the NAACP provided funds to assist in an appeal to the United States Circuit Court of Appeals. The national office of the NAACP, through Thurgood Marshall, special counsel, directed the preparation of an appeal, assisted by Attorneys A. P. Tureaud and Joseph A. Thornton of New Orleans. The date fixed for their execution was set aside by an order signed by Judge Samuel H. Sibley of the United States Circuit Court of Appeals. After two successive delays were granted in the filing of the appeal, the matter was finally lodged in the appellate court by NAACP attorneys Marshall, Tureaud and Thornton.

Justice Black

Before a date on which the appeal would be heard was fixed, an attempt was made to set their conviction aside by a writ of habeas corpus, in which it was set forth that the federal district court did not have jurisdiction to try them. The writ was filed in the Circuit Court of Appeals which was unprecedented in this circuit; argument on the writ was heard and the court decided to pass on the entire case and the writ when the appeal came up for hearing, on March 22.

MAY 29 1943

One week later, the judges of the United States Circuit Court of Appeals certified the questions of jurisdiction to the United States Supreme Court in order that they may decide the matter on appeal. The district attorney for the Western District of Louisiana who tried the case had argued in the appellate court contending that the district court had jurisdiction to try soldiers. When the matter reached the United States Supreme Court the United States Attorney General, through Solicitor General Charles Fahy, filed a brief in the case admitting that the district court at Alexandria had no jurisdiction over the matter, due to the fact that the government had not accepted jurisdiction over the site of Camp Claiborne. The case was argued in the Supreme Court on May 10, one year from the date on which the alleged act occured.

Justice Hugo Black rendered the unanimous opinion of the court. The three soldiers will be released either to military authorities for court martial or to state authorities for trial in state courts.

WASHINGTON, D. C. (I N S) —The United States District Court in Louisiana which sentenced to death three Negro soldiers charged with rape had no jurisdiction to try the soldiers, the U. S. Supreme Court ruled in an opinion by Associate Justice Hugo Black.

Following an appeal by the NAACP, the United States Su-

Decision Sets Aside Death Sentences Of Soldier Trio

JUN 4-1943

Atlanta, Georgia Daily World

Justice Black Holds That Court Had No Jurisdiction Over Case

preme Court acted upon the question of jurisdiction which had been submitted to it by the U. S. Court of Appeals for the 5th Circuit for a ruling.

NAACP counsel for the soldiers, Richard Adams, John Bordenave and Lawrence Mitchell contended that the conviction had taken place at a time when federal authorities had no jurisdiction over the lands of Camp Claiborne, Louisiana, where the crime of rape was alleged to have been committed.

Justice Black's opinion pointed out that the Judge Advocate General of the Army, the Solicitor of the Department of Agriculture and the Department of Justice have concurred in the view that the trial court was without jurisdiction because of a 1940 Act of Congress.

The NAACP did not enter this case until after the conviction of those soldiers who were rushed to trial and sentenced before members of their families had time to secure fees for private counsel. The court assigned an attorney and the soldiers were convicted last summer.

At the present time the soldiers are confined at Texarkana, Texas. Thurgood Marshall, NAACP special counsel said the NAACP is now considering what legal steps may be taken next to save the men from the electric chair when a retrial is set.

Age-Herald

Birmingham, Ala.

ALABAMA PAIR GET STAY OF EXECUTION

APR 20 1943

WASHINGTON, April 19—(AP)—The Supreme Court granted Monday a stay of execution for Henry Daniels, Jr., and Curtis Robinson, Negroes convicted of criminally attacking a white woman at Mobile, Ala., and sentenced to die April 23.

A stay was sought to give time for filing a petition for a review of an Alabama Supreme Court decision upholding the conviction in the Mobile County Circuit Court.

The offense charged was alleged to have taken place Aug. 19, 1941.

They contended, through an attorney, that the conviction was obtained through a confession obtained "by force and intimidation, i. e. beatings, threats of lynching, etc., and by prolonged questioning."

Here's Supreme Court Preview

Birmingham, Ala., News October 3, 1943

Application Of Selective Service To Objectors At Issue, Also OPA Rent Control, Negro Vote

BY JAMES W. DOUTHAT

WASHINGTON—(AP)—Litigation involving application of the selective service act to conscientious objectors awaits action by the Supreme Court when it reassembles Monday for the 1943-44 term.

This question shares the spotlight with other cases testing the constitutionality of Office of Price Administration rent control regulations and the right of a Negro to vote in a Texas Democratic primary to nominate candidates for Congress.

Approximately 400 cases have been docketed, including those the tribunal agreed to review before it adjourned for the Summer on June 21. More are arriving daily.

Promptly at noon Monday, the black-robed justices will open the new term by marching slowly into the crimson-draped and marble-columned chamber. They will admit attorneys to practice before the tribunal, receiving motions, then adjourn for a week.

* * *

THEIR REAL WORK WILL BEGIN IMMEDIATELY, however, for during the week a series of conferences will be held to decide whether to grant or deny reviews in cases docketed during the Summer. The action will be announced the following Monday before oral arguments are begun on cases left over from last term.

One of the draft act cases was filed by Arthur Goodwyn Billings, a former teacher at the University of Texas, who challenged a Circuit Court ruling that he was legally inducted into the Army when the induction oath was read to him after he had refused to take the oath.

He said he was opposed to war and intended, if he passed the physical examination at Ft. Leavenworth, Kan., to refuse to take the oath and turn himself over to civil authorities for punishment. Instead, the oath was read to him and he was declared in the Army. He said he had spent the last year in the guardhouse.

* * *

TWO OTHER CASES WERE FILED by Walter Ford Gormly, of Milwaukee, and Nick Falbo, of Westmoreland County, Pa., who were sentenced to five years' imprisonment for failure to report for work at conscientious objectors' camps.

Gormly contended that working at the camp would make him "a participant in the war machine and an accessory to murder on the battlefield." Falbo, a member of Jehovah's Witnesses, asserted he was an ordained minister exempt from training and service.

Constitutionality of rent control provisions of the emergency price control act was challenged by Stanley W. Taylor, of San Francisco. He claimed that the provisions converted the OPA administrator into a "one-man legislature."

In the Texas primary case, the Supreme Court was urged to reexamine its 1935 opinion sustaining the exclusion of a Negro from voting.

The new appeal was filed by Lonnie E. Smith, Houston Negro, who was denied a vote in 1940 by the election judges. The action was upheld by the Federal District Court at Houston and by the Fifth Federal Circuit Court.

* * *

ATTORNEYS FOR SMITH CONTENDED that the Supreme Court, in a 1941 decision, had ruled that in a state where choice of the primary was tantamount to election the right to vote in the primary was derived from the federal constitution.

Still pending before the tribunal are two outstanding cases on which action has been prevented by lack of a quorum. The law specifies that six justices constitute a quorum, and four of the nine justices have disqualified themselves from acting in these cases because of previous connection with the litigation. Legislation is pending in Congress to lower the quorum to five justices.

One of the stymied cases involves Justice Department charges that the Aluminum Company of America violated the Sherman anti-trust act by possessing a monopoly in the production and sale of aluminum. The Federal District Court at New York held that the charges had not been proved.

Some of the other petitions awaiting action involve:

1. The conviction of John Klinger, alias Jacob K. Linger, of New York, on a charge of unlawfully possessing and transporting gasoline rationing coupons.

2. Whether full-time Los Angeles newsboys are employes of a newspaper and are covered by the national labor relations act.

3. The conviction of William T. Reid, of New Orleans, on a charge of threatening to kill President Roosevelt.

4. Whether an operator of a dance hall (Rio ballroom in Sacramento) was subject in 1937 to federal social security taxes on payments to "taxi dancers."

5. An appeal by Edgar Flowers, a Tampa Negro sentenced to die for attack.

6. Whether the OPA is entitled to an injunction to restrain a store from further violations of general maximum price regulations whenever the act has been violated in the past, even though unintentionally. The test case was brought by the Hecht Company, Washington department store.

Washington Tribune
Washington, D. C.

Rehearing Denied in Florida Rape Case

Petition for re-hearing of the case of Edgar Flowers, sentenced to death in Florida, was denied on October 18 by the U. S. Supreme Court. Flowers, now in Florida State Penitentiary was convicted of the crime of rape upon a white woman. He was arrested in March, 1942.

The denial, on October 11, of a writ of certiorari to review the judgment of the Florida Supreme Court was set forth by NAACP attorneys handling the case as reason for granting a rehearing.

Here's Supreme Court Preview

Age-Herald Birmingham, Ala.

Application Of Selective Service To Objectors At Issue, Also OPA Rent Control, Negro Vote

BY JAMES W. DOUTHAT

WASHINGTON—(AP)—Litigation involving application of the selective service act to conscientious objectors awaits action by the Supreme Court when it reassembles Monday for the 1943-44 term.

This question shares the spotlight with other cases testing the constitutionality of Office of Price Administration rent control regulations and the right of a Negro to vote in a Texas Democratic primary to nominate candidates for Congress.

Approximately 400 cases have been docketed, including those the tribunal agreed to review before it adjourned for the Summer on June 21. More are arriving daily.

Promptly at noon Monday, the black-robed justices will open the new term by marching slowly into the crimson-draped and marble-columned chamber. They will admit attorneys to practice before the tribunal, receiving motions, then adjourn for a week.

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THEIR REAL WORK WILL BEGIN IMMEDIATELY, however, for during the week a series of conferences will be held to decide whether to grant or deny reviews in cases docketed during the Summer. The action will be announced the following Monday before oral arguments are begun on cases left over from last term.

One of the draft act cases was filed by Arthur Goodwyn Billings, a former teacher at the University of Texas, who challenged a Circuit Court ruling that he was legally inducted into the Army when the induction oath was read to him after he had refused to take the oath.

He said he was opposed to war and intended if he passed the physical examination at Ft. Leavenworth, Kan., to refuse to take the oath and turn himself over to civil authorities for punishment. Instead, the oath was read to him and he was declared in the Army. He said he had spent the last year in the guardhouse.

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TWO OTHER CASES WERE FILED by Walter Ford Gormly, of Milwaukee, and Nick Falbo, of Westmoreland County, Pa., who were sentenced to five years' imprisonment for failure to report for work at conscientious objectors' camps.

Gormly contended that working at the camp would make him "a participant in the war machine and an accessory to murder on the battlefield." Falbo, a member of Jehovah's Witnesses, asserted he was an ordained minister exempt from training and service.

Constitutionality of rent control provisions of the emergency price control act was challenged by Stanley W. Taylor, of San Francisco. He claimed that the provisions converted the OPA administrator into a "one-man legislature."

In the Texas primary case, the Supreme Court was urged to reexamine its 1935 opinion sustaining the exclusion of a Negro from voting.

The new appeal was filed by Lonnie E. Smith, Houston Negro, who was denied a vote in 1940 by the election judges. The action was upheld by the Federal District Court at Houston and by the Fifth Federal Circuit Court.

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ATTORNEYS FOR SMITH CONTENDED that the Supreme Court, in a 1941 decision, had ruled that in a state where choice of the primary was tantamount to election the right to vote in the primary was derived from the federal constitution.

Still pending before the tribunal are two outstanding cases on which action has been prevented by lack of a quorum. The law specifies that six justices constitute a quorum, and four of the nine justices have disqualified themselves from acting in these cases because of previous connection with the litigation. Legislation is pending in Congress to lower the quorum to five justices.

One of the stymied cases involves Justice Department charges that the Aluminum Company of America violated the Sherman anti-trust act by possessing a monopoly in the production and sale of aluminum. The Federal District Court at New York held that the charges had not been proved.

Some of the other petitions awaiting action involve:

1. The conviction of John Klinger, alias Jacob K. Linger, of New York, on a charge of unlawfully possessing and transporting gasoline rationing coupons.

2. Whether full-time Los Angeles newsboys are employes of a newspaper and are covered by the national labor relations act.

3. The conviction of William T. Reid, of New Orleans, on a charge of threatening to kill President Roosevelt.

4. Whether an operator of a dance hall (Rio ballroom in Sacramento) was subject in 1937 to federal social security taxes on payments to "taxi dancers."

5. An appeal by Edgar Flowers, a Tampa Negro sentenced to die for attack.

6. Whether the OPA is entitled to an injunction to restrain a store from further violations of general maximum price regulations whenever the act has been violated in the past, even though unintentionally. The test case was brought by the Hecht Company, Washington department store.